

### **REMARKS/ARGUMENTS**

Claims 18-38 stand in the present application, claim 28 having been amended. Reconsideration and favorable action is respectfully requested in view of the following remarks.

In the Office Action, the Examiner has rejected claims 30 and 31 under 35 U.S.C. § 101. Applicants respectfully traverse the Examiner's § 101 rejection of the claims.

The Examiner's § 101 rejection is not understood because claims 30 and 31 are dependent claims which depend respectively from claims 18 and 28. Since parent claims 18 and 28 pass § 101 muster it is not understood how dependent claims 30 and 31 cannot. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claims 30 and 31.

The Examiner has also rejected claims 18-38 under 35 U.S.C. § 102(e) as being anticipated by Obhan. Applicants respectfully traverse the Examiner's § 102 rejection of the claims.

The Examiner's citation of Obhan as anticipating the present claims is in error because the reference is not directed to an improved messaging platform. Obhan concerns the management of radio spectrum in wireless communication systems, i.e., methods for managing the loading of subscribers or callers and not the loading of a messaging platform. (See in particular the title; column 1, lines 14 to 20; column 2, lines 24 to 31 and 35 to 60.) The claims are also all directed to methods "for managing subscriber load within a terrestrial wireless communication system". Thus, Obhan is simply not primarily concerned with messaging nor with messaging platforms.

It is true that figure 13, and its description at lines 22 to 47 does concern a messaging platform for the delivery of SMS messages. Figure 14 and its description at lines 48 of column 19 to line 11 of column 21 also remotely concern a messaging platform. Finally, figure 12, and its description at lines 40 to 61 of column 18, which concerns the selective completion of calls to a mobile subscriber unit, shows that an option which may be (but need not be) provided is some system to record voice messages in the event that a called mobile subscriber unit cannot receive a call because the corridor in which the subscriber unit is located does not support call delivery to the subscriber. But it is clear that the system as a whole is not a messaging platform -- any messaging platform discussed therein is only a subset of the whole system and does not constitute the primary thrust of the reference.

With respect to claim 18, the Examiner is correct that it is implicit in the passage at lines 54 to 62 of column 18 that there must be a messaging platform including a message store to receive message data and to store the message data for subsequent retrieval.

The Examiner mistakenly alleges, however, that Obhan also discloses "a control interface arranged to allow the communication of control signals between the messaging platform and a service provider," as required in claim 18. The Examiner cites to column 5, lines 29 to 32, in support of his assertion which relates to Figure 1: "the system operator parameters 104 are typically provided by the system operator based upon the business goal it has for the wireless business". The Applicants submit that this passage and Figure 1 of Obhan are not at all relevant to present claim 18. Figure 1 does not show an interface to a messaging platform as required by the claim

and the cited passage does not support such an interpretation of the Figure. The second passage cited by the Examiner, column 19, lines 4-21, concerns the handling of calls originating from mobile subscriber units. There is nothing in this cited passage which teaches or suggests the existence of a control interface in a messaging platform as required by the claim. This passage relates to Figure 12 which is described as "a logic diagram illustrating operation according to [the Obhan] invention in selectively completing a call to a subscriber unit." (Emphasis supplied.) See Obhan at col. 18, lines 41-43. It is error for the Examiner to allege that these portions of Obhan disclose a control interface operatively associated with a messaging platform. Obhan simply does not teach (or even suggest) this element of present claim 18.

For the third integer of the claim "an overload controller provided on the control interface and responsive to an overload condition of the platform and arranged, in response to the said overload condition, to limit loading of the platform by signals arriving on said control interface" the examiner cites Figure 1, element 100 - the spectrum yield management (SYM) system, and the passage from line 65 of column 4 to line 36 of column 5. This passage however is not at all concerned with any messaging platform elements of the system. Rather, the passage discusses the SYM analytical engine 102 which receives current wireless network demand data (which is described fairly fully between line 50 of column 5 and line 4 of column 6) and the potential wireless network demand data (which is described between line 5 and 15 of column 6). The operation of the SYM analytical engine is further described between line 16 and 67 of column 6. It is clear that the cited passage does not teach or suggest the third integer of the claim. In fact, no where in the specification, claims or drawings of

Obhan, is there even a remote reference or showing of a control interface operatively associated with a messaging platform.

Against claim 19 the examiner cites column 19, lines 4 to 21 and column 18, lines 54 to 62. But the column 19 passage is merely concerned with the handling of telephone calls (lines 63 of column 18) originating from a mobile subscriber unit - and how such calls are handled if there is nominally insufficient spectrum available (for the class of the relevant subscriber) - it has nothing to do with messaging, nor with control requests or even a control interface. The passage from column 18 concerns a different and alternative situation in which a call is being made to a mobile subscriber unit. Here again, there is no control request -- rather what we have is an incoming call which is being made to a mobile subscriber unit which is in an overloaded (spectrum deficient) corridor - the system may be configured either to deny completion of the call, or it may (or it does not have to) offer the caller a chance to leave a message- which will not, of course use overloaded corridor spectrum. This clearly does not constitute an overload controller on a control interface denying control requests. The cited passage does not provide any teaching of an overload controller as required by claim 19.

Against claim 20 the examiner cites a passage from column 5 which concerns current demand data for wireless spectrum in the wireless network. This has nothing to do with any messaging platform element. The passage from column 10 does mention control channels used for signaling but these are in the air interface between a base station and the subscriber units that it serves. The control channel has nothing to do with the messaging platform element of the system. Neither cited passage appears to teach any form of access controller.

Regarding claim 21: as already indicated the passages cited by the examiner (which are applied against both claims 20 and 21) fail to teach or suggest an access controller. Also, of course, the cited art still lacks a teaching of an overload controller. The Examiner relies upon lines 5 to 15 of column 6, but this passage is also not relevant since it concerns potential demand data. No combination of the cited passages (or indeed any other parts of the citation) teaches or suggests the individual features or their specific combination as required by this claim.

Claim 22: The cited passage, which relates to only potential demand data, does not teach the limitations of this claim.

Claim 23: Note that the potential demand data are based upon the number of subscribers registered within the wireless communication system but both currently engaged in ongoing communication- i.e. the number of subscribers whose phones are powered up and which are registered with base stations but which are not engaged in calls. It seems odd therefore to cite to this passage as a basis for an overload controller which details the rate of transactions between an access controller and a plurality of service providers or users. Again the absence from the citation of a control interface and an overload controller as required by the claims is problematic when it comes to understanding the Examiner's rejection.

Claim 24: The examiner cites column 3, lines 24 to 44. This concerns the overall spectrum yield management system within which subscribers are divided into a plurality of classes, each of which is treated differently with the respect to the services provided. But this feature does not relate to any messaging platform and, in particular, it is not used by any non-existent overload controller of such a messaging platform.

Claim 25: The passage between lines 5 and 15 of column 5 appears to be of no relevance at all to the claim. The figures 7a and 7b (which are discussed between line 60 of column 14 and line 26 of column 15) do show the existence of priority categories for SMS messaging but absent any teaching of an overload controller for controlling control requests in a messaging platform, it is impossible to see in this disclosure any relevance to the claimed subject-matter.

Claim 26: The passages from column 5 do not appear to have any relevance. Column 19, lines 49 to 52, concerns time-sensitive and time-insensitive SMS (text) messages. Column 18, lines 54 to 62 concerns incoming calls made to a mobile subscriber and the possibility of call completion, call denial or message leaving. While there is clearly disclosure of different classes of service and different network/system behaviours there is no teaching to apply this concept to an overload controller operating on a control interface of a messaging platform.

Claim 27: The cited passages from column 5 appear to be without relevance to this claim. Figure 7 and its description do not appear to teach more than the idea of having different classes of service.

Claim 28: The Examiner's identification of the mobile terminals 328 (called "voice subscriber unit" which "provide a voice of services for respective users" - these contrast with so-called "data units" which is shown as vending machines) as being "a service platform running a messaging service application" is simply not understood. Such an interpretation is not justified and there is simply no relevance in the passage between lines 30 and 32 of column 5. In any event, this claim is believed to patentably define over Obhan for the same reasons given above with respect to the other client -- Obhan

does not teach or suggest a control interface or an overload controller both operatively connected to a messaging platform.

More particularly, for a teaching of the control interface (to allow communication of control signals between the messaging platform and a service provider) feature of the claim, the Examiner cites passages relating to system operator parameters, calls made to subscriber units (which may be blocked or which may result in messages being left), and network infrastructure which may bar calls FROM mobile subscriber units (i.e. which is therefore quite distinct from the system which was described in column 18) but which can be overridden (and which has no associated messaging system - logically, if the purpose of barring calls from certain classes of customer in a given corridor is to avoid the instantaneous overloading of radio spectrum such purpose would be voided if every caller within a corridor could always leave a message). The cited passages clearly do not teach the claim limitation.

For the overload controller (which has to be provided on the control interface) the examiner cites a passage (columns 4 and 5) which concerns the SYM analytical engine and the type of computing device it may consist of - which clearly has little if anything to do with what has been cited concerning the control interface, and which certainly does not disclose or suggest the features of the claim

The citations for the final limb of the claim seem similarly wide of the mark.

The Examiner's citations against claim 32 are akin to those used against claim 28 and they also do not apply against claim 32. He is again confusing the SYM analytical engine with a messaging system, and importing features relating to the SYM engine into the messaging platforms which undoubtedly exist as subsystems - but such a

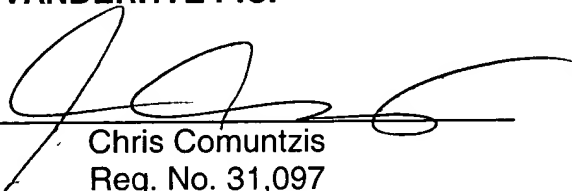
reformulation of the teaching of Obhan is neither consistent with what Obhan actually teaches nor is it something which one of ordinary skill in the art would do in trying to implement the system of Obhan.

Therefore, in view of the above amendments and remarks, it is respectfully requested that the application be reconsidered and that all of claims 18-38, standing in the application, be allowed and that the case be passed to issue. If there are any other issues remaining which the Examiner believes could be resolved through either a supplemental response or an Examiner's amendment, the Examiner is respectfully requested to contact the undersigned at the local telephone exchange indicated below.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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